

GEORGE MASSIE

IBLA 82-627

Decided May 20, 1982

Appeal from decision of California State Office, Bureau of Land Management, declining to accept notices of location of a mining claim for recordation. CA MC 107197.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment -- Mining Claims: Recordation

Under sec. 314(b) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744(b) (1976), and 43 CFR 3833.1-2(b), the owners of unpatented lode or placer mining claims located after Oct. 21, 1976, must file in the proper BLM office within 90 days after the location of such claims, a copy of the official record of the notice of location or certificate of location. Failure to file such instruments timely is deemed conclusively to constitute an abandonment of the mining claims by the owners, and they are properly declared void.

APPEARANCES: George Massie, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

George Massie appeals the California State Office, Bureau of Land Management (BLM), decision of December 24, 1981, which returned the notice of location for the Gold Water placer mining claim, CA MC 107197, and the service fee for the recordation, because the notice of location was not filed with BLM within 90 days after the date of location as required by section 314(b) of the Federal Land Policy and Management Act of 1976 (FLPMA),

43 U.S.C. § 1744(b) (1976), and 43 CFR 3833.1-2(b). 1/ The notice of location indicates that the claim was located August 10, 1980, and that the notice had been recorded in Tuolumne County, California, August 14, 1980, but it was not submitted to BLM until December 18, 1981.

Appellant does not point to any error in the BLM decision, but expresses his wish to have areas set aside for recreational prospecting and mining. 2/ He claims to represent some 80,000 gold prospectors.

[1] Section 314(b) of FLPMA requires the owner of an unpatented mining claim located after October 21, 1976, to file a copy of the official record of the notice of location in the proper BLM office within 90 days after the date of location; section 314(c) provides that failure to file the instruments required by section 314(b) shall be deemed conclusively to constitute an abandonment of the claim by the owner. The requirements of the statute and the consequences for noncompliance are restated in the regulations at 43 CFR 3833.1-2(b) and 3833.4(a).

As the copy of the notice of location for the Gold Water placer mining claim was not filed with BLM within 90 days after August 10, 1980, the date of location, BLM correctly refused to accept the filing tendered by December 18, 1981. The Gold Water placer mining claim must be deemed abandoned pursuant to section 314 of FLPMA.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Douglas E. Henriques
Administrative Judge

We concur:

Bernard V. Parrette
Chief Administrative Judge

James L. Burski
Administrative Judge

1/ BLM treated the communication from Massie as an appeal even though it does not comport with the regulatory requirements. The Board has similarly treated it as an appeal.

2/ The question of areas for recreational prospecting or mining is not within the jurisdictional ambit of the Interior Board of Land Appeals. The question should properly be addressed to the Secretary of the Interior.

